

REMARKS/ARGUMENTS

Claims 1-13 remain pending in the instant office action. Favorable reconsideration is kindly requested.

Specification

The abstract is objected to for the use of legal phrases normally reserved for claims (*i.e.* “comprising”). By the above amendment, the abstract is rewritten to remove the objected phrases. Favorable reconsideration and withdrawal of the objection is kindly requested.

Rejections Under 35 U.S.C. § 112

Claims 1-13 are rejected under 35 U.S.C. § 112, second paragraph, as indefinite. The office action avers that “the claims are generally narrative and indefinite...and are replete with grammatical and idiomatic errors.” (Office Action p. 2). Applicant respectfully disagrees. However, in order to advance prosecution, claims 1, 4, 11 and 13 are amended above to improve their readability. The amendments are editorial in nature only, and no alteration of the scope of any claim is effected by the above amendment, nor should one be inferred. No new matter has been added.

Applicant respectfully submits that the rejection has been obviated, and kindly requests favorable reconsideration and withdrawal.

Rejections Under 35 U.S.C. § 102

Claims 1-13 are rejected under 35 U.S.C. § 102(b) as anticipated by European Patent Application Publication No. EP 0785379-A2, by Stine (“Stine”). Applicant respectfully traverses the rejection.

The sum total of the Office Action’s treatment of claims 1-13, spanning three full pages of text, amounts to three lines:

Eaton Corporation [Stine] discloses a transmission cooling system
essentially as claimed, including connecting lines 56 and 60.

The reference thus reads on the claims.

A more considered analysis of the present claims illustrates their patentable distinction over Stein. Of the six clauses making up independent claim 1, at least five are neither taught nor suggested by Stine.

In its sole point of specificity about the Stine reference, the Office Action cites to “connecting lines 56 and 60”. As contrasted with independent claim 1, fluid conduits 56 and 60 of Stein are not oil-routing ducts. Stein discloses that fluid conduits 56 and 60 are provided for the delivery and return of liquid coolant of the engine cooling system 50 (Col. 4, lines 16-38). Neither are fluid conduits 56 and 60 integrated in the case of the transmission, also recited in claim 1. The fluid conduits 56 and 60 of Stein do not extend to the output side and face of the transmission as recited in claim 1. To the contrary, connecting lines 56 and 60 extend past an input side face of the transmission in order to connect with the vehicle liquid cooling system 50 (Fig. 1).

Stine discloses that heat exchanger 40 is internal, and preferably integral, with transmission case 26 in sump area 36 (Col. 4, lines 16-18). Therefore, Stine does not teach or suggest the feature of claim 1 reciting “the heat exchanger on the output-side of the transmission”.

Further, because the Stine heat exchanger in question is internal and preferably integral with the transmission case, there is no teaching or suggestion of the recited “retaining device fastening the heat exchanger to the output-side end face of the case of the transmission”, also recited in claim 1.

There being no retaining device taught or suggested by Stine, there are similarly no connecting lines integrated in the retaining device, also recited in claim 1.

Finally, and similarly contrary to the assertion of the Office Action, Stine includes no teaching or suggestion of complementary connections standardized in terms of type and dimension on the retaining device (of which there is none) and the transmission case for routing of oil and for fastening the retaining device further recited in independent claim 1. Therefore, considering independent claim 1 as having six clauses, the Stine reference fails to meet at least five of them.

The Courts have recently reiterated the strict identity standard in order to find anticipation, stating “Because the hallmark of anticipation is prior invention, the prior art reference – in order to anticipate under 35 U.S.C. § 102 – must not only disclose all elements of the claims within the four corners of the document, but must also disclose those elements ‘arranged as in the claim.’” *Net MoneyIN, Inc., v. Verisign, Inc.*, 545 F.3d 1359 (Fed. Cir. 2008).

In light of the several distinctions between claim 1 and Stein noted above, Applicant respectfully submits that claim 1 is patentably distinguished over Stine.

Claims 2-13 each depend either directly or indirectly, from independent claim 1. These dependent claims are each separately patentable. However, in the interest of brevity, they are offered as patentable for at least the same reasons as underlying independent base claim 1, the features of which are incorporated by reference. Therefore, Applicant respectfully submits that the rejection has been obviated, and requests favorable reconsideration and withdrawal.

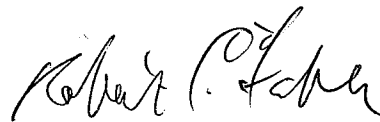
Conclusion

In light of the foregoing, applicant respectfully submits that all claims are allowable, and that the application is in condition to pass to issue. An early and favorable Notice of Allowability is kindly requested.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE PATENT AND
TRADEMARK OFFICE EFS FILING
SYSTEM ON October 9, 2009.

RCF/DJT:lf/stb

Respectfully submitted,



Robert C. Faber
Registration No.: 24,322
OSTROLENK FABER LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700